

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

FILED  
COURT OF APPEALS  
DIVISION II

2013 SEP 12 PM 1:20

STATE OF WASHINGTON )

STATE OF WASHINGTON

Respondent, )

BY Ca  
DEPUTY

v. )

COA. No. 44433-0-11

MICHAEL GONZALES )

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

(your name) )

Appellant. )

I, Michael Gonzales, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

THE TRIAL COURT VIOLATED MY  
STATE AND FEDERAL CONSTITUTIONAL RIGHTS  
TO DUE PROCESS OF LAW BY ADOPTING  
THE STATE'S FINDINGS OF FACT AND CONCLUSIONS  
OF LAW IN SUPPORT OF DENYING 3.5 AND 3.6  
MOTIONS TO SUPPRESS STATEMENTS AND EVIDENCE  
SEE ARGUMENT PAGE

Additional Ground 2

Also evidence should have been suppressed w/ violin case as  
Well Wung Son v. United States, 371 U.S. 471, 83 S.Ct. 402, 9 L.Ed.2d  
441 (1963).

If there are additional grounds, a brief summary is attached to this statement.

Date: 8-28-13

Signature: Michael Gonzales

## ADDITIONAL GROUND ONE ARGUMENT

### a. RELEVANT FACTS

IN a bench trial, before the Honorable Judge ANNA M. LAURIE, MR. GONZALES moved to suppress alleged statements and evidence against him. After oral arguments the trial court ruled that:

I am finding under the position of the state and the reasons elucidated by MR. ANDERSON that it is admissible. And I will direct the state to prepare 35 findings. See 10-8-2012 RP 19.

After hearing evidence and arguments the trial court stated:

"I need to sign some findings."  
11-6-2012 RP 5.

Appellate counsel assigned error to the trial court's findings and conclusions.

MR. GONZALES assigns error to the trial court's boiler plate adoption of findings prepared by the state.

Generally, All persons of this country shall not be deprived of life, liberty or property without due process of law. U.S. CONST. amendments 5 and 14;  
WASH. CONST. Art. 1, Sec. 3.

The United States Supreme Court has criticized courts for verbatim adoption of findings of fact prepared by prevailing parties, particularly when those findings have taken the form of conclusory statements unsupported by citation to the record. See e.g., United States v. El Paso Natural Gas Co., 376 U.S. 651 (1964); United States v. Marine Bancorporation, 418 U.S. 602 (1974).

"We are also aware of the potential for overreaching and exaggeration on the part of attorneys preparing findings of fact when they have already been informed that the judge has already decided in their favor." See J. Wright, The Nonjury Trial - Preparing findings of fact,

conclusions of LAW AND OPINIONS,  
SEMINARS FOR NEWLY APPOINTED  
JUDGES, 159, 166 (1962).

IN the case at bar, the  
trial judge merely signed the  
state's findings of fact and  
did not prepare her own.

MR. GUNZLES submits this type  
of judicial practice, violates due  
process because the judge's act  
of discretion is not used in  
the state's findings and conclusions.

This effectively leaves MR. GUNZLES  
in a trial by state and not by

A unbiased judge, AS required  
through state and federal constitutional  
provisions.

Therefore, this court of Appeals  
should strike the state's findings  
of fact and conclusions of LAW  
and conduct AN independent  
review of the record to find in  
fact MR. GUNZLES rights under  
the 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments  
were violated.